

CHAPTER 4 DEPARTMENT PLANNING RESPONSIBILITIES

[Prior to 5/20/87, see Aging, Commission on the[20] Chs 3 to 5]

321—4.1(231) Definitions. Words and phrases as used in this chapter are as defined in 321 IAC 1 unless the context indicates otherwise. The following definition also applies to this chapter:

“*Unit of general purpose local government*” means a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions.

321—4.2(231) State plan on aging.

4.2(1) Authority. The Iowa department of elder affairs is designated as the sole state unit on aging in Iowa for the development and implementation of a state plan on aging under Section 305 (42 U.S.C. 3025) of the Act.

4.2(2) Duration and format. The department shall develop a four-year state plan in compliance with the OAA and Iowa Code chapter 231, in order to receive grants under the Act. The state plan shall be developed in accordance with the format, content, time limits, transmittal forms, and procedures specified by the federal AOA. The state plan on aging shall also be in compliance with requirements for state plans under the Act, Section 307 and associated instructions, guidance or direction from the federal AOA.

4.2(3) Process.

- a. The department shall hold at least one public hearing on the state plan.
- b. The commission shall consider and approve the state plan or state plan amendment prior to submittal to the governor for approval and signature.
- c. Each state plan or state plan amendment shall be signed by the governor and submitted to AOA to be considered for approval at least 45 calendar days before the effective date of the plan or the plan amendment.

321—4.3(231) Designation of PSA. Unless changed for reasons given in this chapter, the PSA boundaries shall remain the same as those existing on July 1, 1985.

4.3(1) Criteria. The PSA boundaries shall remain the same as those which existed on July 1, 1985, unless altered for cause under the provisions of this chapter. The commission may alter existing PSA boundaries only after giving consideration to and meeting all requirements under Section 305 (42 U.S.C. 3025) of the Act.

4.3(2) PSA boundary alteration procedure. Prior to submission of the multiyear state plan on aging, the commission shall notify the AOA of the intent to either maintain or alter existing PSA boundaries. If the intent is to alter PSA boundaries, the department shall utilize the following process:

- a. *Notice.* The department shall advertise the intent to alter existing boundaries and the availability of applications to serve as a PSA in the affected area by sending notice to all AAA, units of local government, and known groups of elders in the affected PSA.
- b. *Publication.* The department shall also publish a notice in at least one newspaper of statewide circulation and the official newspapers as designated for each county served by the affected PSA.
- c. *Time frame.* The notice shall be published a minimum of 50 days in advance of the deadline for submitting applications.
- d. *Deadline.* The notice shall state the precise deadline for requesting application packets as well as for submittal of completed applications.

4.3(3) Application requests. Interested applicants shall send a letter of intent to apply and a request for an application packet to the Department of Elder Affairs, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319. The letter and request must be received by the department prior to the deadline for requests as established in the notice provided pursuant to paragraph 4.3(2)“d.”

4.3(4) Application content. The application shall contain information that indicates the applicant's ability to:

- a. Meet the criteria established in the Act;
- b. Conform to state law and rules promulgated by agencies having jurisdiction in the affected PSA.

4.3(5) Public hearing.

a. Within 60 days after notification of AOA as required in this rule, the department shall hold a minimum of one public hearing which shall be chaired by the director or the director's designee for the purpose of receiving presentations by the applicants and comments from the public.

b. The department shall designate a date, time and place for the hearing and shall publish notice at least two weeks in advance. If possible, the ICN network will be used to minimize travel for those wishing to participate, except applicants. Applicant presentations are to be given at the designated public hearing site in Des Moines.

c. The department may receive oral and written comments from interested persons prior to the hearing. These comments shall have the same weight and effect as those received at the hearing.

d. Presentations and comments at the hearing shall be time-limited and shall be prearranged with the department.

4.3(6) Department review of applications and comments.

a. The department shall review all applications and comments to determine the applicant most qualified to fulfill the PSA obligations for the affected area.

b. A synopsis of application and comment information shall be prepared for the commission. If requested, the commission may fully review all applications and comments.

c. Within 90 days after the public hearing, the department shall issue a proposed decision. The proposed decision shall be based on analysis of application content, public comments and criteria contained in Section 305 (42 U.S.C. 3025) of the Act.

4.3(7) Commission action. The commission shall act on the boundary alteration proposal or designation of a PSA at its next meeting after receipt of the department's proposed decision. As a part of the commission's action, the commission shall include an effective date which shall be at least 365 days after the final decision.

321—4.4(231) Designation of AAA. Unless changed for reasons given in this chapter, the AAA designations shall remain the same as those existing on July 1, 1985.

4.4(1) If, for any reason, there is need to change the AAA designation, the commission shall follow the procedures given in this chapter to designate an entity to be the AAA to serve each PSA as defined in this chapter.

4.4(2) The commission shall alter existing AAA designations only for the following reasons:

- a. Withdrawal by the department of an existing AAA designation as outlined in this chapter;
- b. Voluntary withdrawal by the existing AAA of its designation; or
- c. A change in the designation of the PSA served by the AAA.

321—4.5(231) Types of entities that qualify as an AAA.

4.5(1) Qualifications. In order to qualify for designation as an AAA, an entity must have the authority and capacity to perform the functions of an AAA and handle the responsibilities outlined in 321 IAC 5, 6 and 7.

4.5(2) Right of first refusal. When the commission designates a new AAA, the commission shall give the right of first refusal to a unit of general purpose local government provided:

- a. The unit can meet the requirements of this rule;
- b. The unit's boundaries and the boundaries of the PSA are reasonably contiguous.

4.5(3) *First refusal process.* Should a unit of general purpose local government choose to exercise the right of first refusal, it shall make application for designation as an AAA as provided in this chapter.

4.5(4) *Order of preference.* When a unit of general purpose local government does not exercise the right of first refusal by making application, applicant preference categories shall be in the following order:

1. An established office on aging which is defined as a legally incorporated entity with employed staff whose single purpose is to administer programs for elders.
2. An agency whose single purpose is to administer programs for elders.
3. A multipurpose agency as defined in 321 IAC 4.6(231).
4. Any public or nonprofit private agency in a PSA which can engage in the planning and provision of a broad range of supportive or nutrition services within the PSA, except any regional or local agency of the state.

321—4.6(231) *Multipurpose entity.* An AAA may be a multipurpose entity with the authority and capacity to administer human services in the PSA.

4.6(1) A multipurpose entity shall delegate all its authority and responsibility under the Act to a single organizational unit within the entity unless it applies for and receives a waiver of this requirement from the department as a part of the application approval process.

4.6(2) A multipurpose entity previously designated as an AAA shall submit its waiver request as a part of its multiyear area plan.

4.6(3) When a multipurpose entity is designated as the AAA for a designated PSA, the governing body of that multipurpose entity shall be responsible to the department for the administration and operation of the aging programs under the multiyear area plan.

321—4.7(231) *Request for waiver.* A waiver request seeks waiver of the requirement to delegate all authority and responsibilities under the Act to a single organizational unit.

4.7(1) An area agency shall submit a request on forms supplied by the department, and shall:

- a. Describe methods for carrying out the AAA's functions and responsibilities under the Act; and
- b. Designate a component unit of the AAA to:
 - (1) Plan and develop policies and programs for elders in the multiyear area plan;
 - (2) Administer the area plan; and
 - (3) Provide a visible focal point for advocacy and coordination for the PSA.

4.7(2) The commission may approve a request for waiver if it is determined that the AAA can effectively carry out its functions and responsibilities under the Act without being a single organizational unit.

321—4.8(231) *Applicant qualification and preference.* The method for determining qualified applicants for AAA designation and for giving preference if there is more than one qualified applicant in any of the eligible applicant categories shall be in accordance with this chapter.

321—4.9(231) *Procedure for designation of an AAA.*

4.9(1) Notice. The department shall advertise the need for applications from qualified entities by sending notice to all units of local government, known groups of elders, and potential service providers in the affected PSA. In addition, the department shall publish a notice in the official newspapers as designated for each county served by the AAA a minimum of 45 days in advance of the deadline for submitting applications. The notice shall state the precise deadline for requesting application packets as well as for submittal of completed applications.

4.9(2) Requests. Interested applicants shall send a letter of intent to apply and a request for an application packet to the Department of Elder Affairs, Jessie Parker Building, 510 East 12th Street, Suite 2, Des Moines, Iowa 50319. This material must be received by the department prior to the deadline for requests as established in the notice provided pursuant to 4.9(1).

4.9(3) Application content. The application shall contain, at a minimum, the following information for the entity:

- a. Indications of organizational stability;
- b. Administrative ability and staffing proposals;
- c. Organizational structure;
- d. Services offered;
- e. Fiscal history and management capabilities;
- f. Proposed methods for development of an advisory council whose members are representative of the PSA and the population served;
- g. Ability to meet the requirements of this chapter and others governing administration, operation and reporting requirements for AAA;
- h. An applicant that is a multipurpose agency must include in its application a proposal for the delegation of all its authority and responsibility to a single organizational unit within its structure. An applicant that does not propose delegation must submit a waiver request as required by this chapter.

4.9(4) Public hearing.

- a. The department shall hold a minimum of one public hearing which shall be chaired by the director or the director's designee for the purpose of providing presentations by applicants and receiving comments from the public.
- b. The department shall designate a date, time and place for the hearing and publish notice at least two weeks in advance. If possible, the ICN network will be used to minimize travel for those wishing to participate.
- c. The department may receive oral and written comments from interested persons prior to the hearing. These comments shall have the same weight and effect as those received at the hearing.
- d. Presentations and comments at the hearing shall be time-limited and shall be prearranged with the department.

4.9(5) Department review of applications and comments. Subsequent to the public hearing, the applications shall be sorted according to types of agencies and in the order of preference categories as given in 4.9(7). The department shall review all applications and comments based on the criteria established by this chapter to determine the applicants qualified for an on-site assessment. A synopsis of this information shall be prepared for the commission.

4.9(6) On-site assessment. The purpose of the assessment is to verify information provided in the application.

- a. The department shall make arrangements for the assessment with the qualified applicant(s).
- b. A written tool shall be used to conduct the assessment.
- c. The department shall present to the commission a written report of the assessment and a written recommendation regarding the designation of an AAA.
- d. The basis for the recommendation shall be the application review, the public comments, and the on-site assessment.

4.9(7) Preference process. Preference categories may be found in subrule 4.5(4).

- a. The department shall determine whether any applicants in the first preference category are qualified.
- b. If there is more than one qualified applicant in this category, the more qualified applicant will be determined by review, comparison and analysis of how well each applicant meets the criteria set forth in this chapter.
- c. When the more qualified applicant has been determined, the designation may be offered to that applicant.

d. If for any reason that applicant is unable to accept the designation, the department may offer the designation to the second more qualified applicant in the first category, or the more qualified applicant in the second preference category shall be determined. A review, comparison and analysis shall be made between the applicant selected in the second preference category and the second-place applicant under the first category.

e. The designation may be offered to the more qualified of the two applicants. If for any reason that applicant is unable to accept the designation, the same process shall continue through the preference categories as given in this rule.

4.9(8) Commission action. When designating an AAA, the commission shall consider the following:

- a.* The synopsis of the application review as performed by the department;
- b.* The findings of the on-site assessment; and
- c.* Recommendations of the department.

4.9(9) The commission shall act on the designation of an AAA at its next meeting after receiving the department's recommendation.

321—4.10(231) Withdrawal of AAA designation. When an AAA cannot, or will not, fulfill its responsibilities as given in 321 IAC 5, the commission may withdraw the designation for reasons including but not limited to:

1. Substantial violation of grant terms and conditions or requirements and standards set forth in state law or rules promulgated by the department or other agencies having jurisdiction;
2. Inadequate performance of the responsibilities outlined in 321 IAC 5, 6, or 7 and any other chapters governing administration, operation and reporting for AAA;
3. The AAA's multiyear area plan is not approved by the commission;
4. Actual performance varies drastically from planned performance;
5. Financial instability;
6. Deficiency in implementation of programs;
7. Contractual or direct services to the elderly commenced more than two months after the approved project period;
8. Reporting of fiscal or performance data does not comply with written procedures issued by the department; or
9. The AAA has been unable or has refused to take timely remedial action to correct cited deficiencies within the given time frame established for correction.

321—4.11(231) Procedures for withdrawal of AAA designation.

4.11(1) When there is reason to withdraw AAA designation as outlined in this chapter, the department shall:

- a.* Notify the AAA in writing of the deficiency or deficiencies that form the reason for the withdrawal;
- b.* Provide technical assistance to determine the staffing, management, fiscal or other problems causing the reason for withdrawal;
- c.* Assist in developing a written action plan for correcting the reason within a given time frame;
- d.* Monitor the progress toward correcting the deficiency;
- e.* Report to the AAA in writing the findings of the monitoring; and
- f.* Determine appropriate commission action based on the progress as determined in monitoring progress reports, which may include:
 - (1) Placing the AAA in probationary status;
 - (2) Retrieval or withholding of funds;
 - (3) Suspension or withdrawal of AAA designation.

4.11(2) The department shall give written notice to the AAA of the right to appeal.

a. Any applicant for designation as an AAA whose application is denied and who has been provided a hearing by the department of inspections and appeals and has received a written appeal decision by the commission may appeal the denial to the federal commissioner of the AOA in writing within 30 calendar days of receipt of the commission's decision.

b. A party who seeks judicial review shall first exhaust all administrative remedies as follows:

(1) A party may appeal the decision of the administrative law judge as provided in this subrule and receive a decision from the commission as provided in this subrule.

(2) Petition for judicial review of the commission's decision shall be filed within 30 calendar days after the decision is issued.

321—4.12(231) Department action subsequent to withdrawal.

4.12(1) Notification and plan. When AAA designation has been withdrawn, the department shall:

a. Notify the AOA in writing of the designation withdrawal.

b. Implement a plan for continuity of services in the affected PSA.

c. Designate a new AAA in the PSA in accordance with this chapter.

4.12(2) Continuity of services. To ensure continuity of services in the affected PSA, the department may:

a. Perform the responsibilities of the AAA;

b. Assign the responsibilities of the AAA to another agency in the PSA; or

c. Submit a written request to the AOA for an extension of the current AAA designation for up to 180 days. The request must document the need for an extension to provide continuity of services in the affected PSA.

321—4.13(231) Technical assistance. The department may provide assistance as follows:

1. To an AAA that is unable to meet target dates, that has requested training, or in order to determine remedial action for performance deficiencies.

2. To any organization, agency, association or individual representing or serving the needs of elders.

These rules are intended to implement Iowa Code chapter 231.

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